

Caldwell/PRSU

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF PENNSYLVANIA

FILED
HARRISBURG

JUN 28 2001

Junior FREDERICK, Pro-Se
Fed. Reg. No. 48440-053
Petitioner

MARY E. D'ANDREA, CLERK
Per
DEPUTY CLERK

Vs.

Case No. 1:01-CV-1196

Donald ROMINE, Warden
USP Lewisburg, PA.
Respondent

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SCRANTON

MAY 19 2000

HABEAS CORPUS

[28 U.S.C. Section 2241 (c) (3)]

PER
DEPUTY CLERK

Plaintiff avers his rights to Habeas Corpus Relief for a hearing to adjudicate and determine the factual basis upon which his complaint rests in law.

TITLE 48, Section 1561 U.S.C.

All persons shall have the privilege of the Writ of Habeas Corpus, and the same shall not be suspended except as herein expressly provided by law or in time of war or national rebellion.

FACTUAL ALLEGATIONS
(Statement of The Case)

Comes now, Junior Frederick, a Federal prisoner presently confined at the Lewisburg Penitentiary, and moves this Honorable Court for a Writ of Habeas Corpus in order to protect his constitutionally protected rights under the Eighth Amendment.

Petitioner is presently being warehoused in "B" Block of the U.S. Penitentiary, Lewisburg, Pa. 17837, in a double cell approximately 6 ft. by 8 ft. by 9 ft. Petitioner is being forced to share a cell the size of a small closet with another inmate. The cell is extremely small and with the double bunk and two lockers bolted individually to the floor, plus a chair, a writing table, a toilet and a sink, the amount of space is reduced severely. This makes it extremely difficult to live.

Petitioner is over 6 feet tall and his cellmate is 6 feet tall and 240 pounds; two grown men sharing a cell smaller than a bathroom. This is a total breach of human dignity. In addition, petitioner is a non-smoker, and his cellmate is a chain smoker. This can lead to conflicts, and often does; too much smoke to inhale.

On October 21, 1997, a Federal Judge in Philadelphia ruled that placing two inmates in a cell the size of a toilet was cruel, mean-spirited and in violation of the 8th Amendment, and Federal law will not permit this kind of cruel treatment. Constitutional Amendment (8th). Judge Maurice B. Cohill. Also **RUIZ Vs. ESTELL**, cite at 679 F2nd 1115, 1116-1117.

The "B" Block unit of this prison has been a one-man cellblock since 1932. For more than 68 years, it has been a one-man cellblock. The cells are no bigger today than they were 68 years ago. The summer will soon be here and the cell will hot; 90 to 100 degrees, with insufficient air to breathe and insufficient ventilation.

Petitioner is complaining of lack of privacy in human living conditions also, in violation of his Eighth Amendment rights

MEMORANDUM OF LAW

The ends of justice would best be served if this Honorable Court would grant petitioner the following relief:

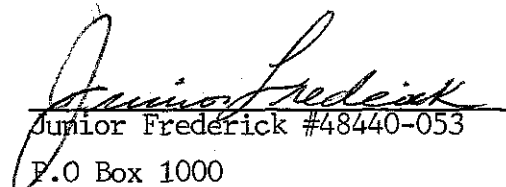
- 1) Issue an injunction declaring the prison cells in "B" block unconstitutionally unfit and too small in size to warehouse two grown men.
- 2) Inspect the unconstitutional conditions of placing two grown men in a cell barely large enough for a full grown dog to live in. Enjoin Lewisburg prisoncrats from double celling any inmate in "B" Block, which was built back in 1932, designed and structured solely for one person.
- 3) Direct prison officials to provide at least 75 to 80 square feet of living space for inmates they choose to double cell, or place me in a single cell.

- 4) Order the Warden to place petitioner in a cell that will allow him a minimum of 40 square feet of living space (679 F2d 1115).
- 5) Declare unconstitutional the practice of double celling inmates in "B" Block as barbaric, cruel and in violation of the 8th Amendment.
- 6) It is a known fact that violent and aggressive prisoners require more living space than the average prisoners. Men with aggressive disorders can not be caged in small cages or they become paranoid. The Warden said he is trying to make the prison safe and less violent. If some men could not get along with each other when they were in a cell alone, how can you expect them to by doubling them up? You can not reduce violence in prisons by packing men in a cell like sardines in a can.

CONCLUSION

Wherefore, petitioner prays that this Court will grant him all relief to which he may be entitled to in this proceeding. Let justice be unto all mankind. Petitioner Rests.

Respectfully Submitted,

 5/11/00
Junior Frederick #48440-053
P.O Box 1000
Lewisburg, PA. 17837